

## **CHAPTER 30-03-01.1 BAIT VENDORS**

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**30-03-01.1-01. License required to be displayed.** All licenses must be publicly displayed on the business premises. Business names must be displayed on any vehicle used to transport live bait.

**History:** Effective April 1, 2008; amended effective April 1, 2009.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-02. Bait definitions.** As used in this chapter:

1. The term "legal live baitfish" means fathead minnow, stickleback, creek chub, and white sucker.
2. The term "live bait" includes all fishes, amphibians, insects, or other invertebrates.
3. The term "processed baitfish" means fathead minnow, stickleback, creek chub, white sucker, rainbow smelt, and lake herring (cisco) that have been preserved by freezing, salting, or otherwise treated to inactivate sexual products.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-03. Baitfish species permitted.** A licensee may possess only legal live baitfish or processed baitfish. Fish species other than those to be used as legal live baitfish and processed baitfish caught while seining or trapping must be returned to the water immediately.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-04. License limitations.** Retail or wholesale bait vendor licenses are issued for a calendar year to one person only. An individual may be issued only one wholesale license per calendar year. The holder of a retail bait vendor license may sell live bait at retail only, at one specified selling location per license. A wholesale bait vendor may only sell live bait to licensed bait vendors. Both a retail license and a wholesale license are necessary to sell live bait at both retail and wholesale. A wholesale licensee may not act as an agent or assistant under the license of another wholesaler.

**History:** Effective April 1, 2008; amended effective April 1, 2009.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-05. Assistants covered by license.** A licensed wholesale bait vendor may employ the assistance of up to six other persons to capture or sell and transport live bait in the manner approved by the director. All assistants must have in their possession department-issued documentation. The licensee is responsible for the actions of employees, including all agents or assistants acting under the licensee's license. No one who has had a department-issued license revoked or suspended within three years may act as an agent or assistant.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-06. Quantity requiring license.** Possession of more than five gallons of rainbow smelt (must be dead), or more than one hundred fifty legal live baitfish, or more than twenty-four live crayfish, or more than twenty-four live frogs, or more than twenty-four live salamanders shall require a retail or wholesale license.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-07. Equipment for holding and transport.** Persons commercializing in or transporting live bait shall use equipment capable of maintaining such live bait in a healthy and lively condition at all times. Each species of legal live baitfish must be kept separate from other species of legal live baitfish in holding and transport equipment. The premises and equipment of all persons commercializing in live bait shall be open to the inspection of the director

or any of the director's duly appointed agents at any time. All licensees' equipment used for transporting live bait into or within the state, including bedding (medium), must be free of aquatic nuisance species. Water used to transport live bait into the state must be from a potable or ground water (well) source and shall not contain any aquatic vegetation. Retail bait vendors must keep all aquatic vegetation and aquatic nuisance species out of bait tanks at their point of sale.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14, 20.1-17-01

**Law Implemented:** NDCC 20.1-06-14, 20.1-17-01, 20.1-17-06

**30-03-01.1-08. Interstate transport.** It is illegal to import fathead minnows or stickleback into the state. It is illegal to import other live baitfish or live bait into the state except with a permit issued by the director and only in the manner approved by the director. It is illegal to export live bait out of the state except with a permit issued by the director and only in the manner approved by the director. It is illegal to transport live baitfish through the state except with a permit issued by the director and only in the manner approved by the director. Permit applications must be received by the director a minimum of forty-eight hours prior to any planned import or export of live bait. Transportation of bait without the proper permits is a class B misdemeanor and may result in the revocation of the vendor's license.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-09. Transportation of bait with aquatic vegetation within the state.** It is illegal to transport bait within the state with aquatic vegetation, or parts thereof, or aquatic nuisance species except with an appropriate license or permit issued by the director and only in the manner approved by the director.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-17-01

**Law Implemented:** NDCC 20.1-17-01, 20.1-17-06

**30-03-01.1-10. Transportation of bait in water within the state.** It is illegal to transport aquatic bait in water within the state except with an appropriate license or permit issued by the director and only in the manner approved by the director.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-17-01

**Law Implemented:** NDCC 20.1-17-01, 20.1-17-06

**30-03-01.1-11. Stocking.** Stocking of any live fish, live fish eggs, live amphibians, or other live aquatic organism into any waters of the state shall be

illegal except with the appropriate license or permit issued by the director. Violation of this section is a class B misdemeanor.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-12. Equipment for taking legal live baitfish and processed baitfish.** A person possessing only a retail license may take legal live baitfish and processed baitfish with a seine not exceeding twenty-five feet [7.6 meters] in length and six feet [1.8 meters] in depth or with traps not larger than thirty inches [76 centimeters] in length, and twelve inches [30.5 centimeters] in diameter, with a throat opening not to exceed one and three-quarter inches [4.445 centimeters] in diameter. The mesh size of both seine and traps shall not exceed three-eighths inch [9.5 millimeters] square measure.

A person possessing the appropriate wholesale license may take legal live baitfish and processed baitfish with fish traps less than five feet [1.5 meters] in any dimension. Mesh size shall not exceed one-half inch [12.7 millimeters] square measure and the throat opening shall be less than three inches [76.2 millimeters] in diameter or width. A valid tag issued by the department must be attached to each trap. Seines used by a licensed wholesaler shall be restricted to those less than two hundred fifty feet [76 meters] in length and fourteen feet [4.25 meters] in depth. Mesh size shall not exceed one-half inch [12.7 millimeters] square measure. A tag issued by the department must be affixed to each seine used by the licensee.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-04

**30-03-01.1-13. Prohibited waters for taking live bait.** Licensees shall not be permitted to take live bait from the following:

1. Waters managed as recreational fisheries;
2. Waters designated by the department as infested with prohibited or regulated aquatic nuisance species;
3. The United States fish and wildlife service's wildlife development areas, waterfowl production areas, or refuges; or
4. The department's wildlife management areas.

Refer to the current fishing proclamation for commercial season and other restrictions for harvesting leeches by licensed bait dealers.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14, 20.1-17-01

**Law Implemented:** NDCC 20.1-06-04, 20.1-17-01, 20.1-17-06

**30-03-01.1-14. Wholesale bait pond.** The term "wholesale bait pond" means any pond used to take live bait for wholesale. A legal description, to the quarter section, of each wholesale bait pond must be listed on the wholesaler's application and all ponds must be approved by the director before a license is issued. The maximum number of ponds from which a wholesale bait vendor may trap annually is fifty ponds.

**History:** Effective April 1, 2008; amended effective April 1, 2009.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-15. Inspections and records.** Equipment used to capture, transport, or hold, and shipments of, live bait are subject to inspections by duly appointed agents of the director. Each licensee trapping, seining, or purchasing live bait for sale must accurately complete forms furnished by the department. Each licensee shall keep current (within a month) records at the retail licensee's point of sale or the wholesaler licensee's permanent business address, or both. Records must be open to inspection by the department. A copy of these records shall be submitted to the director no later than thirty days following expiration of the license. Records must be retained by the licensee for a period of two years after the expiration of any license issued under this section.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-06-14

**Law Implemented:** NDCC 20.1-06-14

**30-03-01.1-16. Violations and penalties.** Any retail or wholesale bait vendor who violates any section of this chapter for which a penalty is not specifically provided is guilty of a noncriminal offense and shall pay a one hundred dollar fee. The violation may result in license revocation. No one who has had a department-issued bait vendor license revoked or suspended within three years may obtain a license or be an assistant for another licensee.

**History:** Effective April 1, 2008.

**General Authority:** NDCC 20.1-02-05(22)

**Law Implemented:** NDCC 20.1-02-05(22)